

GURMAN BLASK & FREEDMAN

CHARTERED

SUITE 500

1400 SIXTEENTH STREET, N.W.

WASHINGTON, D.C. 20036

TELEPHONE (202) 328-8200

TELECOPIER (202) 462-1784

(202) 462-1786

Kimberly D. Wheeler*
*Not Admitted in D.C.

ORIGINAL

May 30, 1997

Hand Delivery

David Furth, Chief
Commercial Wireless Division
Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, N.W.
Washington, D.C. 20554

RECEIVED

MAY 30 1997

Federal Communications Commission
Office of Secretary

Re: Ex Parte Letter in CC Docket No. 94-54

DOCKET FILE COPY ORIGINAL

Dear Mr. Furth:

Western Wireless Corporation ("Western"), by its attorneys, pursuant to Section 1.1206(a)(1) of the Commission's rules, 47 C.F.R. § 1.1206(a)(1), submits this *ex parte* letter in support of AT&T Wireless Services, Inc.'s ("AWS's") *ex parte* letter dated May 13, 1997, addressed to David Furth, advocating the Commission's adoption of automatic roaming rules. Western urges the Commission to immediately adopt rules requiring all CMRS providers to offer automatic roaming to other CMRS providers with customers equipped with technically compatible handsets.

On October 4, 1996, Western submitted its comments in CC Docket Number 94-54 in which it advocated the adoption of an automatic roaming requirement for CMRS providers. Western, through its subsidiaries, is both an incumbent cellular provider and a new PCS entrant. In February 1996, Western's PCS system in the Honolulu MTA became the first auction-awarded PCS system to commence commercial operations in the United States, and in June 1996 its PCS system in the Salt Lake City MTA became the second auction-awarded PCS system to commence commercial operations. It now conducts PCS operations in seven MTAs. Based upon its real world experience, Western believes that market forces alone are not sufficient to overcome many cellular providers' incentive to treat PCS providers anticompetitively by refusing to enter into automatic roaming agreements.

In its October 4, 1996 Comments, Western described its experiences in attempting to secure roaming arrangements with cellular incumbents. Western recounted how it had been engaged in negotiations with a regional cellular carrier for cellular-to-cellular roaming. In the course of those negotiations, Western attempted to secure the rights for its PCS customers to roam onto that carrier's cellular facilities. Despite months of negotiations, the carrier flatly refused to permit Western's PCS customers to roam onto its cellular facilities. The carrier clearly expressed that any efforts by Western to provide its PCS customers with dual-mode phones that might be indistinguishable to the

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cellular carrier from Western's cellular phones would result in the cellular carrier's refusal to permit any of Western's cellular customers to roam in its market. Comments of Western Wireless Corporation at 3-4. Additionally, Western attempted to negotiate a PCS-to-cellular roaming agreement with a large wireline cellular carrier. That carrier refused to discuss any arrangement by which Western's PCS customers could roam in that carrier's market. The carrier's refusal is particularly noteworthy because a PCS carrier within its same corporate family has PCS markets that are either adjacent to or near Western's cellular and PCS markets, and that PCS carrier demonstrated an interest in entering into PCS-to-PCS and PCS-to-cellular roaming agreements with Western. Comments of Western Wireless Corporation at 4. Western's attempts to secure roaming agreements with other cellular providers have likewise proven to be unsuccessful.

AWS describes similar experiences in its letter. AWS states that several cellular carriers have "flatly refused to negotiate in-market roaming arrangements" and that "[t]he only justification provided by these carriers for their refusal to deal or their discriminatory rate structure is AWS's identity as an incoming, in-market competitor." AWS Letter at 2. Western takes this opportunity to support AWS's proposals in its May 13, 1997 *ex parte* letter. The Commission should adopt an automatic roaming mandate similar to the existing CMRS resale rule in which all CMRS providers must allow automatic roaming by all other CMRS providers' customers for a period of five years from the date the last group of initial licenses for broadband PCS spectrum in the 1850-1910 and 1930-1990 MHz bands is awarded. Additionally, the Commission should state that the identity of a carrier as a facilities-based competitor in another carrier's market is not justification for denying it the same automatic roaming rates offered to out-of-market carriers.

Any delay in implementation of an automatic roaming requirement will frustrate PCS carriers' ability to offer expanded services to the detriment of competition and the public interest.

If you have any questions regarding this matter please contact the undersigned counsel for Western.

Sincerely,



Kimberly D. Wheeler

cc: Dan Phythyon
Rosalind Allen
Jeffery Steinberg
Jackie Chorney
Thomas Boasberg
James Coltharp
David Sidall
Suzanne Toller